

# *EXHIBIT*

# 2

**Derek S. Wilczynski**

---

**From:** Jesse Raleigh <j@jraleigh.com>  
**Sent:** Monday, December 07, 2015 7:09 AM  
**To:** Derek S. Wilczynski  
**Cc:** Lincoln Herweyer (lgherweyer@aim.com)  
**Subject:** Re: Malibu Media v. Raleigh - motion for sanctions

Response to section I, Introduction:

The server pictured belongs to Modustri LLC, located at 38 Commerce Ave SE, Grand Rapids MI. Metadata in the image EXIF tags shows it to have been taken at the GPS coordinates of Modustri's offices, at 5:52 PM on November 8th, 2013. Tweets referencing "Old log files" are referring to a file named 'logs.tar.bz2' which resided in the home directory of the 'jr' user on the macbook pro they imaged. In other words, these logs were furnished for discovery. The "third MacBook" was not "recanted" from my testimony, it was purchased by PhishMe Inc in March of this year (2015) and was not present during the "relevant time". The picture provided by plaintiff of 3 macbooks on a table in my house pictures a computer and iPad belonging to guests who were present at the time. One of the guests was pictured in the original shot but was cropped out by the Plaintiff. My recollection of past bittorrent use aside, at no point have I intentionally misstated my belief of the facts. My use of bittorrent has been infrequent at best, and I simply didn't recall having used it. Regarding "evidence matching 3rd party works", the list of alleged infringements from the Plaintiff is sow voluminous and broad that this statement would be true of nearly anyone with a small enough cross section of allegedly infringing files, something I don't take to be coincidental. The "correlation is so exact" that it would appear crafted for the purpose of framing the defendant. The files which the evidence "proves" were downloaded were NOT DOWNLOADED by the defendant and thus CANNOT be turned over.

During the relevant period, the Defendant was traveling and residing in Grand Rapids. His IP address was publicly accessible to 3 additional residences within the building, as well as several more in adjacent buildings. In attempts to resolve the matter expeditiously, Defendant has furnished items not requested, had items that were provided returned unexamined only to be requested again, and denied his right to a fair and speedy resolution. Plaintiffs assertion that a mockery has been made is clearly true, however the originator of that mockery is the Plaintiff's attempt to conduct a racketeering and extortion scheme using the courts as strong men.

FACTS

A 1 Server:

The server referenced belongs to Modustri LLC of Grand Rapids MI. The metadata on the image shows the location to be their address, and the time and date to be: 5:52 PM on November 8th, 2013.



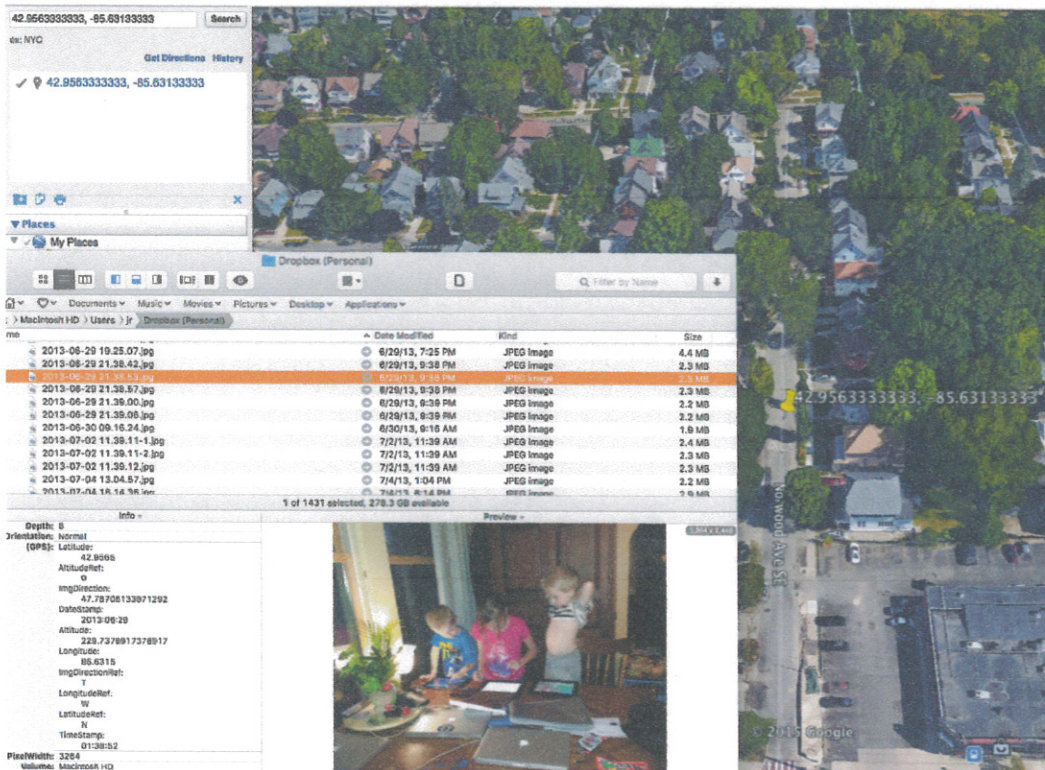


Defended worked at Silversmith up until January of 2013. Defendant was working for Agent X / Modustri LLC in November, located at 38 Commerce Ave Grand Rapids MI.

A 4 - In June of 2013 I lived at 343 Norwood Ave SE, Grand Rapids MI. The metadata on this picture corroborates this fact. Plaintiffs assertion is both false and intentionally misleading. 2 of the macbooks pictured and one of the tablets do in fact belong to me. The additional tablets and macbook however belong to guests. One of whom was cropped out of the photo provided by the plaintiff but is included here along with relevant metadata. Also included is another picture from that sequence that shows Nicolai Huffaker and Angelina Peariso, who's parents own the other two ipads, as well as the additional macbook pictured in Plaintiff's image.







The "Third Macbook" the Plaintiff refers too was purchased in March of 2015 by PhishMe Inc. Included is a screenshot of it's about pane, including the model number (Mid 2014) and the Serial Number.



Plaintiff's conduct and disregard for protection orders and respect for judicial process is why my wife and I refused to name any additional parties for Plaintiff to harass and intimidate. For the Plaintiff to CROP GUESTS out of a photo, and submit it as evidence claiming it shows "No guests" reflects upon the initial cause for concern.

A 5 - Defendant swore he has no "all in one" computer - I don't it's a USB monitor.

A 6 - Plaintiffs ability to identify items in pictures is severely lacking. The device pictured is this <http://www.amazon.com/AOC-E1649FWU-USB-Powered-Portable-Monitor/dp/B005SEZR0G>

Serial number: CZSB9HA000205

Defendant still possesses this device and would be happy to furnish it if necessary.

A - 7 Defendant swore he did not have additional cloud storage devices - Clicking links to OTHER PEOPLE'S shared files creates a history such as that described. It does not require the conditions the Plaintiff asserts must exist to happen.

A 8 - The folder title "PSF" is created by Parallels virtualization software, to share files between the "Host" and the "Virtualized Machine". As outlined here: [http://download.parallels.com/desktop/v5/docs/en/Parallels\\_Desktop\\_Users\\_Guide/30589.htm](http://download.parallels.com/desktop/v5/docs/en/Parallels_Desktop_Users_Guide/30589.htm)

This "share" existed wholly within the Macbook #1, and did not represent a physical LAN or share. The VM was provided with original discovery request.



A 8 B - Defendants recollection was not perjurious merely incomplete. the existence of Metadata along with some random files and folders does not prove that those file originated from Bittorrent, furthermore none of the files listed in this request for sanctions were among the list of allegedly infringed files in the plaintiffs original claim. Neither the Plaintiff's own works, nor any of the alleged third party works are among those listed in this motion.

C - The Western Digital MyBook drive was produced during initial discovery, sent to Sterling Heights Michigan, where Plaintiffs experts took NO ACTION on it. Furthermore, the Plaintiff's claim that this drive was in use from October 2011 is also incorrect. The manufacture date of the drive itself is 2 May, 2012 as demonstrated in the attached picture.



Regarding backups being erased, that's simply incorrect. Attached is a screenshot from the provided drive showing files dating back to 2010.



Name	Date Modified	Size	Kind
2013-12-18-170019	Dec 18, 2013, 5:00 PM	--	folder
Macintosh HD	Dec 18, 2013, 5:00 PM	--	folder
Applications	Dec 16, 2013, 10:54 PM	--	folder
com.google.picasa	Jul 20, 2010, 3:59 PM	--	folder
Picasa filecheck	Jul 20, 2010, 3:59 PM	--	folder
CoreSyncInstall.log	Jun 18, 2013, 9:38 AM	132 bytes	Log File
Developer	Nov 10, 2013, 9:33 AM	--	folder
git	Dec 1, 2013, 9:55 PM	38 bytes	Alias
hudson	Jul 14, 2011, 1:03 AM	--	folder
Incompatible Software	Jul 25, 2012, 1:00 PM	--	folder
Library	Dec 15, 2013, 10:59 AM	--	folder
nohup.out	Sep 4, 2013, 12:54 AM	271 bytes	Document
Previous System	Oct 23, 2013, 12:06 AM	--	folder
sw	Jul 28, 2010, 10:31 PM	--	folder
System	Oct 22, 2013, 11:41 PM	--	folder
User Guides And Information	Jul 20, 2010, 12:47 PM	60 bytes	Alias
User Information	Jun 22, 2012, 1:05 PM	49 bytes	Alias
Users	Oct 22, 2013, 11:47 PM	--	folder
jr	Dec 18, 2013, 3:56 PM	--	folder
2dudesmediamockup	Mar 19, 2011, 10:21 PM	1.6 MB	Pixelm...cument
100SANYO	Feb 7, 2011, 6:54 PM	--	folder
adt-bundle-mac	Dec 18, 2012, 9:30 PM	--	folder
android-ndk-r8c	Oct 22, 2012, 2:03 AM	--	folder
Applications	Dec 1, 2013, 6:52 PM	--	folder
Applications (Parallels)	May 1, 2013, 11:15 AM	--	folder
atplay.sql	Mar 27, 2012, 12:12 AM	8.3 MB	SQL
atplay.sublime-project	Jun 11, 2012, 8:26 PM	56 bytes	JSON
atplay.sub...workspace	Jul 1, 2012, 3:04 PM	6 KB	Document
atplayios.tproj	Apr 16, 2012, 9:54 AM	2 KB	Document
atplaywebsite.tproj	Jun 3, 2012, 11:19 AM	6 KB	Document
AVCHD	Mar 11, 2011, 4:48 PM	953.3 MB	AVCH...llection
bankrate...press.tproj	Aug 31, 2010, 8:00 AM	1 KB	Document
bankrate.tproj	Sep 23, 2010, 10:48 AM	3 KB	Document
bash_snippets.txt	Dec 14, 2012, 3:48 PM	1 KB	Plain Text
bin	Dec 18, 2013, 3:56 PM	--	folder

D - Defendant did not intentionally fail to disclose anything. Defendant simply did not infringe on plaintiffs IP and therefore cannot provide what Defendant never possessed. Furthermore, the Plaintiff's "Expert" has demonstrated lack of competence in basic technology understanding.

D - 1 "Correlations" - Plaintiff's attempt to tie random data points from a large list of irrelevant material fails on the fact that NONE of the allegedly infringed files were found on my devices, despite there being some bittorrent use.

D - 2 - Interest in games : So 2 fully purchased copies of a game (\$120 total cost), are evidence that I'd pirate a version of the game for a system I don't have when I already have 2 copies?

D - 3 : Linux Mint - I don't use linux mint, and to my recollection never have. At what point does Lack of Evidence become Evidence of Lack?

Correlation does not equal causation.

**Jesse Raleigh**

[j@jraleigh.com](mailto:j@jraleigh.com)

w: [www.jraleigh.com](http://www.jraleigh.com)

m: 231.881.0326

On Dec 1, 2015, at 10:23, Derek S. Wilczynski <[dsw@blancopc.com](mailto:dsw@blancopc.com)> wrote:

Jesse: